

NOT FOR CITATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JASMINE SOHAL,

Plaintiff,

No. C-05-4070 PJH

No. C-05-4519 PJH

v.

**ORDER GRANTING DEFENDANTS'
MOTIONS TO DISMISS**

DEPARTMENT OF INDUSTRIAL
RELATIONS - DIVISION OF WORKERS'
COMPENSATION, ADMINISTRATIVE
LAW JUDGES ASSIGNED TO W.C.A.B.
CASES OAK 0196995 AND OAK 0203653
AND DOES 1-50,

Defendants.

JASMINE SOHAL,

Plaintiff,

v.

DEPARTMENT OF INDUSTRIAL
RELATIONS - DIVISION OF WORKERS'
COMPENSATION, WCJ/REFEREE AND
DOES 1-10,

Defendants.

Defendants' motions to dismiss plaintiff's complaints in the above cases came on for hearing on April 19, 2006, before this court. Pro per plaintiff Jasmine Sohal ("Sohal") did not appear. Defendants Department of Industrial Relations - Division of Workers'

1 Compensation ("Division") and WCJ/Referee ("WCALJ Baird") appeared through their
2 counsel, James M. Robbins. Having carefully reviewed the parties' papers and considered
3 the arguments and the relevant legal authority, and good cause appearing, the court
4 hereby GRANTS defendants' motions for the reasons that follow.

5 **BACKGROUND**

6 On October 7, 2005, Jasmine Sohal ("Sohal") filed her original complaint in case no.
7 05-4070 PJH against the Division and WCALJ Baird. She also filed an application to
8 proceed in forma pauperis ("IFP") on October 7, 2005. On November 3, 2005, this court
9 dismissed Sohal's complaint with leave to amend.

10 On November 4, 2005, Sohal filed a new case with this court, case no. 05-4519
11 WHA (now PJH), against the Division and WCALJ Baird, along with another application to
12 proceed IFP.

13 On November 10, 2005, this court related case no. 05-4519 to the earlier-filed case
14 no. 05-4070. Because it appeared that Sohal intended the complaint filed in 05-4519 as
15 the amended complaint in case no. 05-4070, the court closed case no. 05-4070 as
16 duplicative. However, on November 17, 2005, Sohal filed a motion to reconsider the
17 closing of case no. 05-4070. Sohal asserted that she did not intend the November 4, 2005
18 complaint filed in case no. 05-4519 to be the amended complaint in case no. 05-4070. She
19 asserted that the complaints involved different claims. Additionally, on November 14, 2005,
20 Sohal withdrew her request to proceed IFP in case no. 05-4519 and paid the filing fees. On
21 December 8, 2005, this court granted Sohal's motion to reopen case no. 05-4070.

22 On February 9, 2006, Sohal filed an amended complaint ("1AC") in case no. 05-
23 4070. On February 17, 2006, she also withdrew her request to proceed IFP and paid the
24 filing fees.

25 Subsequently, on March 8, 2006, the Division and WCALJ Baird, the only named
26 defendants, filed motions to dismiss the complaints in both cases. On April 14, 2006, three
27 court days prior to the hearing in this case, Sohal filed an amended complaint in case no.
28 05-4519 against the Division and WCALJ Baird.

1 The court notes that while Sohal has not been officially declared a vexatious litigant,
2 she is no stranger to the courts. Sohal has had several cases in this district before the
3 Honorable Judge Jensen. 95-0490 DLJ; 98-3364 DLJ; 00-0920 DLJ; 01-2816 DLJ;
4 Additionally, Sohal has had a number of cases in the California state courts. The cases
5 before Judge Jensen, filed in 1995, 1998 and 2001 all involved the same defendant, Pacific
6 Bell, who is also the defendant in her workers' compensation cases which are the subject
7 of the cases before this court. All of the cases stem from her employment with Pacific Bell.
8 Sohal subsequently appealed Judge Jensen's dismissal of those cases to the Ninth Circuit,
9 which affirmed the dismissals.

10 **SOHAL'S CLAIMS**

11 A. Case No. C 05-4070 PJH

12 1. Original Complaint

13 In the original complaint in case no. 05-4070, Sohal brought three causes of action
14 against the Division and WCALJ Baird. As noted, though, because Sohal requested IFP
15 status, the court dismissed the original complaint with leave to amend as an impermissible
16 collateral attack on a prior state court decision and on the basis of judicial immunity.

17 2. Amended Complaint

18 Sohal's February 9, 2006 amended complaint in case no. 05-4070 is very similar to
19 the original complaint. In the amended complaint, Sohal brings four claims against the
20 Division and WCALJ Baird.

21 Sohal's first claim, like that in her original complaint, alleges violation of the
22 Fourteenth Amendment to the U.S. Constitution and Article one, Section seven of the
23 California State Constitution. Sohal alleges the same facts in the amended complaint as in
24 the original complaint. The only differences between the amended and the original
25 complaint is that Sohal no longer alleges that WCALJ Baird is personally liable under
26 42 U.S.C. § 1983, and Sohal no longer brings her constitutional claims under 42 U.S.C. §
27 1983. Sohal thus brings this claim solely against the Division and directly under the U.S.
28 Constitution.

1 Sohal's second claim was not in her original complaint. In this cause of action,
2 Sohal requests "independent judicial review" of the orders in her workers' compensation
3 cases. She alleges that WCALJ Baird's decisions in case nos. OAK 0196995 and OAK
4 0203653 are invalid because he denied her request to compel witnesses and to continue
5 the hearing, because she was not allowed to cross-examine legal counsel for the defendant
6 Pacific Bell, and because she was denied "adjudication" of issues regarding her
7 rehabilitation, reimbursement of "self-procured" treatment and payment for the court
8 ordered medical exam. She alleges that WCALJ Baird's findings of fact are not supported
9 by the evidence.

10 Sohal's third claim, also found in the original complaint, alleges negligence per se
11 against the Division and WCALJ Baird based on the same facts, that defendants violated
12 the California Code of Regulations by failing to file the same documents discussed in the
13 original complaint's second cause of action.

14 Sohal's fourth claim, intentional infliction of emotional distress, is also alleged in the
15 original complaint. Sohal brings this cause of action against the Division and WCALJ Baird.
16 She also alleges the same facts and violations as she does in the original complaint.

17 Sohal requests the same relief as in the original complaint, but, in addition, she also
18 requests damages for both workers' compensation cases.

19 B. Case No. C 05-4519 PJH

20 As noted, several days prior to the hearing, Sohal submitted an amended complaint
21 in the case. Because she did not specify her intent in submitting the amended complaint
22 while the defendants' motion to dismiss is pending, and did not appear at the hearing, the
23 court has reviewed both the original and the amended complaints for sufficiency.

24
25
26 1. Original Complaint
27
28

1 In her original complaint, Sohal brings six causes of action against the Division and
2 WCALJ Baird. These claims, like those in Sohal's 1AC in case no. 05-4070, appear to
3 arise from the same operative facts concerning the workers' compensation proceedings.

4 Sohal's first claim is for abuse of process. Sohal first cites to the California Code of
5 Regulation Title eight, Article 1.6, Section 9720.1. She alleges that on November 6, 2004,
6 she received a copy of the Minutes of Hearing ("Minutes") and Summary of Evidence
7 ("Summary") from her workers' compensation hearing for case nos. OAK 0196995 and
8 OAK 0203653. She alleges that the Minutes and Summary contain fraudulent portions.
9 The alleged fraudulent portions concern her testimony about a co-employee from Pacific
10 Bell who was taking and selling drugs near her residence, and Sohal's denial that she ever
11 had any "problems or issues" with substance abuse.

12 In conjunction with this first claim, Sohal alleges that she testified at the October 7,
13 2004 workers' compensation hearing about a "libelous publication," written by Pacific Bell,
14 concerning her alleged criminal activities. Sohal alleges that she offered into evidence
15 documents as proof that she did not commit the alleged criminal activities. Sohal describes
16 in detail her testimony about the "libelous publication" and the subsequent dismissal of her
17 case against Pacific Bell. Sohal claims that the Division and WCALJ Baird misused the
18 Minutes and Summary to falsify records, and fabricate her testimony. She alleges that the
19 Division's and WCALJ Baird's intentions were to give an advantage to Pacific Bell in her
20 workers' compensation cases.

21 Sohal's second claim alleges negligence per se. Sohal cites to the California Code
22 of Regulations Title eight, Article nine, Section 10566, for the proposition that the summary
23 of evidence required by the labor code must include a "fair and unbiased summary" of each
24 witness' testimony. She alleges that the Division and WCALJ Baird violated this provision
25 of the regulation when they admitted the above-mentioned "fraudulent" portions of the
26 Minutes and Summary.

27 Claim three of Sohal's complaint alleges negligence and failure to discharge a
28 mandatory government duty under California Government Code section 815.6. Sohal

1 alleges, in reference to the fraudulent portions of the Minutes and Summary, that the
2 Division and WCALJ Baird had a mandatory duty to submit a truthful summary but
3 submitted a fabricated one instead. Sohal alleges that on November 6, 2004, when she
4 reviewed the Minutes and Summary, she was injured and suffered emotional and mental
5 anguish that aggravated a preexisting stress disorder.

6 Sohal's fourth claim alleges violation of the Fifth and Fourteenth Amendments of the
7 U.S. Constitution. Sohal alleges that her equal protection rights were violated by the
8 misrepresentation of facts in the Minutes and Summary. Sohal claims that her "right to be
9 protected from self-incrimination" was violated because the alleged fraudulent portions of
10 the Minutes and Summary "implicate" her knowledge of the alleged criminal activities,
11 support the "libelous publication," and specify that Sohal's home was the major source of
12 criminal activities.

13 Sohal's fifth claim alleges tortuous interference with business prospects. Sohal
14 claims that the Minutes and Summary are "libelous and a slander to her character." She
15 asserts that public access to the Minutes and Summary, that contain false and incriminating
16 information, will interfere with her efforts to obtain future employment.

17 Finally, Sohal's sixth claim alleges intentional infliction of emotional distress. She
18 claims that the Division and WCALJ Baird were aware of her vulnerability to stress because
19 they reviewed her workers' compensation cases. She alleges that the Division and WCALJ
20 Baird acted with wanton, reckless disregard for her health (mental and physical) in filing the
21 fraudulent Minutes and Summary, and that her review of the Minutes and Summary caused
22 her emotional and mental anguish and that she continues to be distressed. She claims that
23 in accordance with the California Government Torts Act, she filed a timely claim for
24 damages under California Government Code section 910. The claim for damages was
25 denied by the Government Claims Board on May 23, 2005.

26 Sohal requests general, emotional distress, compensatory, and exemplary
27 damages, and the costs associated with this lawsuit.

28 2. Amended Complaint

1 Sohal's amended complaint, filed April 14, 2006, is also very similar to her original
 2 complaint. Her first claim, in which she alleges violation of 42 U.S.C. § 1983 and 42 U.S.C.
 3 § 1981, is nearly identical to claim four of her original complaint in this case. Sohal again
 4 contends that her constitutional civil rights were violated, that she was denied due process,
 5 that defendants "imputed self-incrimination," and violated her liberty interests in her
 6 reputation and property interests in her employment status, and denied her equal protection
 7 under the law.

8 Sohal's second claim is for abuse of process. Sohal's allegations supporting this
 9 claim are nearly identical to those in her first claim for abuse of process in the original
 10 complaint.

11 Sohal's third claim seeks declaratory and injunctive relief, and her fourth claim
 12 demands a jury trial. These claims simply mirror Sohal's prayers for relief in her original
 13 complaint.

14 **DISCUSSION**

15 A. Legal Standard

16 1. 12(b)(1)

17 Plaintiff bears the burden of demonstrating that subject matter jurisdiction exists over
 18 this complaint when challenged under Fed. R. Civ. P. 12(b)(1). See, e.g., Tosco Corp. v.
 19 Communities for a Better Env't, 236 F.3d 495, 499 (9th Cir. 2001). Further, the court may
 20 dismiss a case sua sponte for lack of subject matter jurisdiction. See, e.g., Fed. R. Civ.
 21 Proc. 12(h)(3); Scholastic Entm't v. Fox Entm't Group, Inc., 336 F.3d 982, 985 (9th Cir.
 22 2003) (citing Cal. Diversified Promotions, Inc., v. Musick, 505 F.2d 278, 280 (9th Cir. 1974)
 23 ("It has long been held that a judge can dismiss sua sponte for lack of jurisdiction.")).

24 25 26 2. 12(b)(6)

27 A court should dismiss a claim under Fed. R. Civ. P. 12(b)(6) for failure to state a
 28 claim only where it appears beyond doubt that the plaintiff can prove no set of facts in

support of the claim which would entitle the plaintiff to relief. See, e.g., Broam v. Brogan, 320 F.3d 1023, 1033 (9th Cir. 2003) (citations omitted). In evaluating a motion to dismiss, all allegations of material fact are taken as true and construed in the light most favorable to the nonmoving party. See, e.g., Burget v. Lokelani Bernice Pauahi Bishop Trust, 200 F.3d 661, 663 (9th Cir. 2000) (citations omitted).

B. Defendants' Motion

Defendants move to dismiss Sohal's complaints on six grounds; including:

- (1) as an impermissible collateral attack on a final state court decision;
- (2) because a violation of state law does not give rise to liability under 42 U.S.C. § 1983 and no federal rights are implicated;
- (3) on res judicata grounds;
- (4) on Eleventh Amendment immunity grounds;
- (5) on judicial immunity grounds; and/ or
- (6) for lack of supplemental jurisdiction.

The court need not reach all of these grounds, and concludes that the complaints are properly dismissed for the multiple reasons set forth below.

1. The Complaints in these Cases Constitute Impermissible Collateral Attacks

Defendants argue that Sohal's complaints constitute impermissible collateral attacks on a final state court decision under the Rooker-Feldman doctrine and thus, that this court lacks subject matter jurisdiction over these claims. District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 476 (1983); Rooker v. Fidelity Trust Co., 263 U.S. 413, 415 (1923). In opposition, Sohal argues that she filed her claims seeking justice for the constitutional violations and tort injuries and not to complain of dissatisfaction with WCALJ Baird's rulings.

The Rooker-Feldman doctrine prohibits lower federal courts from hearing either appeals from the state courts, or collateral matters in which the issue raised is "inextricably intertwined" with a state court's final decision, such as when a party claims that a state court judgment itself violated his or her constitutional rights. Johnson v. DeGrandy, 512

1 U.S. 997, 1005-06 (1994). An issue is considered “inextricably intertwined” with the state
2 court’s decision “where the district court must hold that the state court was wrong in order
3 to find in favor of the plaintiff.” Doe & Assoc. Law Offices v. Napolitano, 252 F.3d 1026,
4 1030 (9th Cir. 2001).

5 There is no dispute that Sohal obtained a final decision in her workers’
6 compensation cases, that she appealed that final decision, and that her appeal was denied
7 by the California Supreme Court. The court concludes, therefore, that all claims in the 1AC
8 in 05-4070, and in the original and amended complaints in 05-4519 constitute
9 impermissible collateral attacks on the state workers’ compensation proceedings and on
10 the decision of the California Supreme Court denying Sohal’s appeal. In order for this court
11 to rule in Sohal’s favor, the court would have to find that the Division’s, and in particular,
12 WCALJ Baird’s rulings and decisions were erroneous. Thus, Sohal’s claims are
13 inextricably intertwined with the state court’s rulings and decisions. Because the court
14 lacks subject matter jurisdiction to review a state court’s decision, all claims in both cases,
15 including those in the April 14, 2006 amended complaint in case no. 05-4519 must be
16 dismissed. See, e.g., Fed. R. Civ. Proc. 12(h)(3); Scholastic Entm’t, 336 F.3d at 985 (9th
17 Cir. 2003) (citing Cal. Diversified Promotions, Inc., 505 F.2d at 280).

18 2. Sohal’s Federal Claims are not Cognizable under 42 U.S.C. § 1983

19 Sohal has asserted four federal claims in her complaints, including claims one and
20 two in her 1AC in case no. 4070; claim four in her original complaint in case no. 05-4519;
21 and claim one in her amended complaint in case no. 05-4519.

22 Defendants argue that these claims should be dismissed because a violation of state
23 law does not give rise to liability under 42 U.S.C. § 1983. The Division and WCALJ Baird
24 argue that none of Sohal’s complaints allege facts showing that the Division or WCALJ
25 Baird have violated any of her federally protected rights. They claim that each of Sohal’s
26 claims are based on violations of state statutes and administrative regulations. Sohal did
27 not respond to this argument.

28

1 The Ninth Circuit has held that a plaintiff cannot “sue a state defendant directly
 2 under the Constitution where section 1983 provides a remedy.” Martinez v. City of Los
 3 Angeles, 141 F.3d 1373, 1383 (9th Cir. 1998). Sohal has attempted to bring claim one of
 4 her first amended complaint in case no. 05-4070 directly under the First Amendment of the
 5 U.S. Constitution. However, Sohal must bring her constitutional claims under 42 U.S.C. §
 6 1983. Accordingly, the court construes the claim as brought pursuant to section 1983.
 7 However, “a violation of state law does not lead to liability under § 1983.” Campbell v.
 8 Burt, 141 F.3d 927, 930 (9th Cir. 1998). To state a claim under § 1983, a plaintiff must
 9 allege the violation of a federally protected right. W. v. Atkins, 487 U.S. 42, 48 (1988).

10 This court’s review of Sohal’s complaints confirms that even though she has labeled
 11 her claims as federal due process and equal protection violations, they are predicated on
 12 rights protected by state law not federal law. Accordingly, the asserted federal claims must
 13 also be dismissed on this basis.

14 3. Defendants are Entitled to Immunity on Sohal’s Remaining State Law Claims

15 Sohal’s remaining state law claims, including claims two and four in Sohal’s 1AC in
 16 case no. 05-4070; claims one, two, three, five, and six in Sohal’s original complaint in case
 17 no. 05-4519; and claim two in Sohal’s amended complaint in case no. 05-4519 must be
 18 dismissed on immunity grounds as well.

19 a. Judicial Immunity

20 Defendants argue that WCALJ Baird has judicial immunity with respect to the
 21 following claims: in Sohal’s 1AC in case no. 05-4070, her third claim for negligence per se
 22 and her fourth claim for intentional infliction of emotional distress; in Sohal’s original
 23 complaint in case no. 05-4519, her first claim for abuse of process, her second claim for
 24 negligence per se, her third claim for negligence and a failure to discharge a mandatory
 25 government duty, her fifth claim for tortuous interference with business prospects, and her
 26 sixth claim for intentional infliction of emotional distress; and in her amended complaint in
 27 case no. 05-4519, her second claim for abuse of process and her third claim requesting
 28 declaratory and injunctive relief.

1 Although Sohal seems to acknowledge that her state law claims do not support
2 monetary damages because of judicial immunity, she argues that she is nevertheless
3 entitled to declaratory and injunctive relief. She argues that state judges can be enjoined
4 from committing acts that violate civil rights even though the court as an entity is not liable
5 under the Civil Rights Act.

6 Judicial officers are granted absolute immunity from suit for actions taken in their
7 official judicial capacity. Mireles v. Waco, 502 U.S. 9, 9-10 (1991). The doctrine of judicial
8 immunity also applies to administrative law judges performing judicial functions. Butz v.
9 Economou, 438 U.S. 478, 513-14 (1978). Judicial immunity applies “however erroneous
10 the act may have been, and however injurious in its consequences it may have proved to
11 the plaintiff.” Moore v. Brewster, 96 F.3d 1240, 1244 (9th Cir. 1996). This immunity is not
12 limited merely to suits for damages but extends also to declaratory, injunctive, or other
13 forms of equitable relief. Id. at 1234-44. The only exceptions to the rule are if the judge
14 acts wholly without jurisdiction, or if the acts in question were not undertaken in a judicial
15 capacity. Id. at 1244 (citations omitted).

16 All of the acts Sohal alleges WCALJ Baird committed pertain to his judicial functions
17 in the adjudication of Sohal’s workers’ compensation cases. Therefore, WCALJ Baird is
18 entitled judicial immunity from the claims asserted against him.

19 b. Eleventh Amendment Immunity

20 Defendants argue that the following claims should be dismissed on the ground that
21 the Division has immunity from suit under the Eleventh Amendment: in Sohal’s 1AC in case
22 no. 05-4070, her third claim for negligence per se and her fourth claim for intentional
23 infliction of emotional distress; in Sohal’s original complaint in case no. 05-4519, her first
24 claim for abuse of process, her second claim for negligence per se, her third claim for
25 negligence and a failure to discharge a mandatory government duty, her fifth claim for
26 tortuous interference with business prospects, and her sixth claim for intentional infliction of
27 emotional distress. Because the second and third claims in the amended complaint in case
28 no. 05-4519, are the same as in her original complaint, the same arguments would apply.

1 dismiss sua sponte for lack of subject matter jurisdiction, the court also dismisses the
2 amended complaint in case no. 05-4519. Furthermore, because it is clear to the court that
3 Sohal will not be able to state a viable claim against any defendant, the dismissal is without
4 leave to amend. Cook, Perkiss & Liehe, Inc. v. Northern California Collection Serv., Inc.,
5 911 F.2d 242, 247 (9th Cir. 1990).

6 This order fully adjudicates the matters listed at no. 17 of the clerk's docket for case
7 no. 05-4070, and no. 12 of the clerk's docket for case no. 05-4519. The clerk shall close
8 the files in both cases.

9 **IT IS SO ORDERED.**

10 Dated: April 28, 2006



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PHYLLIS J. HAMILTON
United States District Judge